

Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, May 14, 2008 at 8:30 AM in the Town Hall meeting chambers.

The meeting was called to order by Chairman Hanna and roll call was answered by the following:

Gail Adams Aaskov Bernd Schulte
Bruce Gimmy Chairman Hanna

Atty Spillias was present representing the Town.

III. APPROVAL OF MINUTES FROM DEC. 12, 2007 AND JAN. 9, 2008

Mr. Schulte moved to adopt the minutes from both Dec. 12, 2007 and Jan. 9, 2008 as presented. Mr. Gimmy seconded the motion.

Motion carried – Yea (4).

Chairman Hanna requested to discuss item V Appointment of Vice Chair first.

V. APPOINTMENT OF VICE CHAIR

Chairman Hanna welcomed Bruce Gimmy to the board.

Mrs. Aaskov moved to appoint Mark Hanna as Chair of the Board of Adjustment after no additional nominations were named. Mr. Schulte seconded the motion.

Motion carried – Yea (4).

Mark Hanna moved to appoint Gail Aaskov as Vice Chair of the Board of Adjustment after no additional nominations were named. Mr. Gimmy seconded the motion.

Motion carried – Yea (4).

VI. VARIANCE REQUESTS

- A.** An application submitted by Marianne Mesritz, 105 Bonito Drive, Ocean Ridge FL 33435, requesting a variance from the provisions of the Land Development code, Chapter 64, Zoning, Article I; District Regulations, Section 64-1; RSF and RSE Single-Family Residential District, Paragraph (i); RSF single family residential property development regulations (2)(e) minimum 25' waterway setback requirements to permit the far southern point of a proposed awning structure to cantilever into the waterway setback a maximum of 8ft 7inches. The property is located at 105 Bonito Drive and is described as Lot 105 of McCormick Mile Addition #1 Subdivision (exact legal description located at Town Hall)

Town Clerk Hancsak read the variance request, and added that all original fees had been paid and that no additional correspondence had been received. The board members disclosed that they had driven past the site (with exception of Mr. Gimmy) and did not have any contact with the applicant. All individuals planned on giving testimony were sworn in.

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Chairman Hanna commented, that the only member of the public, Comm Brown, did not object to waiving the reading of the Justification of Application and Administrative Comments into the record (the documents are part of the file). Therefore, the presentation can be given by the applicant.

James Downey, S & D Architecture, Inc., representing the applicant (who was also present), summarized the request, showed a map of the surrounding area, and explained several pictures depicting the effects of the sunlight during various hours of the day. He stated that special circumstances exist for this property because of the shape of the lot and the way the residence is situated, which were not created by the applicant. He commented that he disagreed with that the staff comments pertaining to criteria "C" wherein it stated that the variance would confer a special privilege because a retractable type awning could be permitted without a variance. He stated that a retractable awning may meet the code but it would be kept in the open position and would also require a bigger cantilever. He added that the proposed awning could also be unbolted and removed if necessary. Chairman Hanna advised Mr. Downey that while staff provides administrative comments the board still makes its own decision related to the hardship proven.

Mrs. Aaskov questioned the type of awning to which she was advised that it was a steel frame with a white tension fabric that allows for 5% sunlight filtering through it. She asked if the awning could be closed down and what would happen in the event of a hurricane. She was advised that the awning could not be closed down but the fabric could be removed and that the structure was designed to meet 140 mph winds.

Chairman Hanna questioned how much of the awning encroaches into the setback. Mr. Downey advised approximately 80 sq ft. He then submitted a photo of the rear of the existing home. Mr. Downey also stated that the applicant was requesting the minimal variance because they have not requested an awning on the furthest western portion of the structure.

Manuel Palacios, Zoning Official for Ocean Ridge, commented that he felt the variance request hit a grey area regarding permanent vs temporary and that the request was actually more of a 56 sq ft encroachment.

Chairman Hanna declared the board in executive session.

Mr. Gimmy advised that he had no problem with the request.

Mr. Schulte stated that he felt this request was a judgment of taste and the board must decide if there was a true hardship and he did not feel a hardship was proven. He added that he felt the staff would have to monitor the structure in case the property owner may want to enclose or screen it later.

Mrs. Aaskov stated that she was unsure if a hardship had been proven but she leaned in favor of the request.

Chairman Hanna stated that the lot was an odd shape and the request was not for a large amount but added that he too was unsure if a hardship had been proven.

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Atty Spillias stated that the board should not make its determination based on the style of the awning but on competent substantial evidence meeting all 7 of the criteria. He added that the staff agreed with 6 of the criteria and just questioned whether a special privilege would be given to applicant and the board should focus on that criteria.

Mr. Gimmy asked Mr. Downey if there was an alternative if the variance was not granted. Mr. Downey advised that they may consider a retractable awning, however, it would have to be pre-engineered, pre-designed and specific on how it is mounted. He added that it would also remain open. He also stated that the code does not address awnings and he actually believes it should be considered as an architectural feature. Mr. Palacios stated that since his employ with the Town awnings have been considered structures if they were permanently affixed to the building. He also stated that he discussed the possibility of a retractable awning with the architects.

Mr. Schulte motioned to deny the variance request, seconded by Mr. Gimmy.

Motion carried – Yea (4).

The applicant was advised that they would be receiving a letter from the Town.

V. Adjournment

The meeting was adjourned at approximately 9:00 A.M.

ATTEST:

Town Clerk

Chairman Hanna
Gail Adams Aaskov
Bernd Schulte
Bruce Gimmy